

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition: 45-026-02-1-5-00456
Petitioners: Randall & Phyllis Byrns
Respondent: Department of Local Government Finance
Parcel: 007-26-34-0011-0036
Assessment Year: 2002

The Indiana Board of Tax Review (the Board) issues this determination in the above matter. The Board finds and concludes as follows:

Procedural History

1. The informal hearing as described in Ind. Code § 6-1.1-4-33 was held in Lake County, Indiana. The Department of Local Government Finance (the DLGF) determined that the Petitioners' property tax assessment for the subject property is \$112,100 and notified the Petitioners on April 1, 2004.
2. The Petitioners filed a Form 139L on April 27, 2004.
3. The Board issued a notice of hearing to the parties dated November 5, 2004.
4. Special Master Kathy J. Clark held the hearing in Crown Point on December 8, 2004.

Facts

5. The subject property is located at 2649 163rd Place, Hammond.
6. The subject property consists of a one story, frame, residential dwelling.
7. The Special Master did not conduct an on-site visit of the property
8. Assessed value of subject property as determined by the DLGF:
Land \$14,900 Improvements \$97,200 Total \$112,100.
9. Assessed value requested by Petitioners:
Land \$14,900 Improvements \$57,200 Total \$72,100.
10. Persons sworn as witnesses at the hearing:
For Petitioners – Randall Bryns, owner,
For Respondent – Stephen H. Yohler, assessor/auditor.

11. Petitioners contend that the subject's assessed value is twice that of neighbors to the north, south, east, and west. *Form 139L; Byrns testimony.*
12. Respondent contends that a comparable sales analysis was done using sales from within the subject's neighborhood. It included one of the properties the Petitioners relied on as comparable to the subject. That property, located at 2645 163rd Place, is a significantly older home and is smaller in living area square footage than the subject. For those reasons, the property cannot be considered comparable to the subject. *Respondent Exhibits 2, 4, 5; Yohler testimony.*

Record

13. The official record for this matter is made up of the following:
 - a) The Petition,
 - b) The tape recording of the hearing labeled Lake County 920,
 - c) Petitioner Exhibits – None,
Respondent Exhibit 1 – Form 139L petition,
Respondent Exhibit 2 – Subject property record card,
Respondent Exhibit 3 – Subject photograph,
Respondent Exhibit 4 – Comparable analysis sheet,
Respondent Exhibit 5 – Property record cards and photographs of highlighted comparables used for analysis,
Board Exhibit A – Form 139L,
Board Exhibit B – Notice of Hearing,
Board Exhibit C – Sign in Sheet,
 - d) These Findings and Conclusions.

Analysis

14. The most applicable governing laws are:
 - a) A Petitioner seeking review of a determination of an assessing official has the burden to establish a prima facie case proving that the current assessment is incorrect and specifically what the correct assessment would be. *See Meridian Towers East & West v. Washington Twp. Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also, Clark v. State Board of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998).
 - b) In making its case, the taxpayer must explain how each piece of evidence is relevant to the requested assessment. *See Indianapolis Racquet Club, Inc. v. Washington Twp. Assessor*, 802 N.E.2d 1018, 1022 (Ind. Tax Ct. 2004) (“[I]t is the taxpayer's duty to walk the Indiana Board . . . through every element of the analysis”).

- c) Once the Petitioner establishes a prima facie case, the burden shifts to the assessing official to rebut the Petitioner's evidence. *See American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004). The assessing official must offer evidence that impeaches or rebuts the Petitioner's evidence. *Id.*; *Meridian Towers*, 805 N.E.2d at 479.
15. The Petitioners did not make a prima facie case. This conclusion was arrived at because:
- a) The Petitioners' statement that the lower assessed values of four surrounding properties proves an error in the subject's assessment is unsupported by any factual evidence. It is simply a conclusion that has no probative evidence to back it up. Consequently, the statement has no probative value. *See Whitley Products v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998); *Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 470 (Ind. Tax Ct. 2005). Mere allegations, without factual evidence to support them, are not sufficient to allow the Board to determine if an error in the assessment has been made. *Lacy Diversified Indus. v. Dep't of Local Gov't Fin.*, 799 N.E.2d 1215, 1221 (Ind. Tax Ct. 2003).
- b) The Petitioners failed to prove that the assessment was incorrect or provide evidence as to what the correct assessment should be.
- c) Where the Petitioner has not supported the claim with probative evidence, the Respondent's duty to support the assessment with substantial evidence is not triggered. *Lacy Diversified*, 799 N.E.2d at 1222.

Conclusion

16. The Petitioners failed to provide sufficient evidence to establish a prima facie case. The Board finds in favor of the Respondent.

Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should not be changed.

ISSUED: _____

Commissioner,
Indiana Board of Tax Review

- Appeal Rights -

You may petition for judicial review of this final determination pursuant to the provisions of Indiana Code § 6-1.1-15-5. The action shall be taken to the Indiana Tax Court under Indiana Code § 4-21.5-5. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice. You must name in the petition and in the petition's caption the persons who were parties to any proceeding that led to the agency action under Indiana Tax Court Rule 4(B)(2), Indiana Trial Rule 10(A), and Indiana Code §§ 4-21.5-5-7(b)(4), 6-1.1-15-5(b). The Tax Court Rules provide a sample petition for judicial review. The Indiana Tax Court Rules are available on the Internet at <http://www.in.gov/judiciary/rules/tax/index.html>. The Indiana Trial Rules are available on the Internet at http://www.in.gov/judiciary/rules/trial_proc/index.html. The Indiana Code is available on the Internet at <http://www.in.gov/legislative/ic/code>.